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Scott T. Weingaertner
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036-2787

In re Application of :
Birzer, et al. :
Application No.: 10/500,229 :
PCT No.: PCT/DE02/04744 :
Int. Filing Date: 27 December 2002 : DECISION
Priority Date: 28 December 2001 :
Attorney's Docket No.: 1140668-0066 :
For: AUTOMATION SYSTEM AND METHOD :
FOR MOVEMENT CONTROL OF AT LEAST ONE :
MOVEABLE MACHINE ELEMENT :

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed on the 12 April 2005 indicating that the Notice of Acceptance (form PCT/DO/EO/903) and the filing receipt incorrectly identifies the completion of all 35 U.S.C. 371 requirements.

BACKGROUND

On 27 December 2002, applicant filed international application PCT/DE02/04744 that claimed priority of an earlier German application filed 28 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 28 June 2004.

On 25 June 2004, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, authorization to charge the basic national fee of \$920 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/500,229.

On 04 March 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). This notice indicated that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) was 25 June 2004.

On 12 April 2005, applicant filed the current response indicating that the requirements of 35 U.S.C. 371 were not completed upon filing due to the fact that a signed declaration was not filed. Applicant included a signed declaration with this response.

DISCUSSION

A review of the application file reveals that applicant did not have a proper oath/declaration in the application when the "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) was mailed on 25 June 2004. Therefore, the form PCT/DO/EO/903 mailed 25 June 2004 is hereby VACATED.

CONCLUSION

The petition is **GRANTED**.

The "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) mailed on 25 June 2004 is hereby **VACATED**.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) having a date of 12 April 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).



Debra S. Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration



Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

DSB/RC:dsb

Telephone: (571) 272-3280

Facsimile: (571) 273-0459